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June 28, 2011

VIA ECF

Honorable Kiyo A. Matsumoto
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Scott Fappiano, Case No. 11-CR-30 (KAM)

Dear Judge Matsumoto:

This firm represents defendant Scott Fappiano in the referenced matter. We write to respectfully report to the Court concerning certain conditions relating to Mr. Fappiano's release on bail.

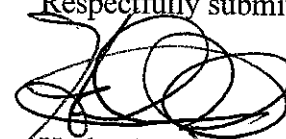
In particular, on February 23, 2011 the Honorable Steven M. Gold (with the government's consent) set bail for Mr. Fappiano pursuant to the terms of the attached Order Setting Conditions of Release and Bond (the "Release Bond"). One such condition required Mr. Fappiano to reside at the Queens Village Committee for Mental Health for J-Cap, Inc. ("J-Cap"), a long-term residential treatment facility where Mr. Fappiano had been receiving in-patient drug and alcohol treatment since approximately December 9, 2010 (before his arrest in connection with the instant matter). Mr. Fappiano's need for such treatment arose from the struggles he experienced with alcohol and drugs as one of the "exonerated" – that is, from his misguided attempt at self-medicating for the severe anxiety and post-traumatic stress he was experiencing following his release from prison after 21 years for a crime that the Innocence Project proved (through the analysis of DNA evidence) he did not commit.

Mr. Fappiano has now successfully completed his residential treatment program at J-Cap, and is qualified for release to his home on Staten Island, where he will continue with outpatient treatment. Ms. Laura Fahmy-Tranchina, Mr. Fappiano's Pre-Trial Services Officer, has approved of such a residential transfer and will continue to monitor Mr. Fappiano pursuant to the terms of the Release Bond (including continued drug treatment and random drug testing). Moreover, I have spoken with Assistant United States Attorney Elizabeth Geddes, who consents to the aforementioned change in residence.

I have been advised by Ms. Fahmy-Tranchina that the United States Pretrial Services Office is authorized to approve of Mr. Fappiano's change in residence because the Release Bond states that Mr. Fappiano is subject to drug treatment and random drug testing as directed by Pre-Trial. Nevertheless, out of an abundance of caution and because the face of the Release Bond seems to suggest that his release was conditioned on residence at J-Cap, I write report to the Court concerning the aforementioned change in Mr. Fappiano's residence. All other conditions set forth in the Release Bond will remain in effect.

Please contact me should the Court have any questions or concerns regarding the foregoing. Thank you for your attention to this matter.

Respectfully submitted,



Harlan J. Protass

Encl.

cc: Elizabeth Geddes, Esq. (via ECF)
Allon Lifshitz, Esq. (via ECF)
Assistant United States Attorneys

Ms. Laura Fahmy-Tranchina (via e-mail w/ encl.)
United States Pre-Trial Service Officer

United States District Court
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

**ORDER SETTING CONDITIONS
OF RELEASE AND BOND**

V.

Case No.: 11 CR 30 (KAM)Scott Fappiano

Defendant

RELEASE ORDER

It is hereby ORDERED that the above-named defendant be released as follows, subject to the Standard Conditions of Bond on the reverse and:

- ☐ Upon Personal Recognizance Bond on his/her promise to appear at all scheduled proceedings as required, or
- ☐ Upon Unsecured Bond executed by defendant in the amount of \$ _____, or \$1.5 million
- ☒ Upon Secured Appearance Bond as provided herein.

Additional Conditions of Release

Upon finding that release under the standard conditions detailed on the reverse will not by themselves reasonably assure the appearance of the defendant and the safety of other persons and the community, IT IS FURTHER ORDERED that the defendant is subject to the following additional conditions of release:

- ☒ 1. The defendant must remain in and may not leave the following areas without Court permission: EDNY & SDNY
- ☒ 2. The defendant shall avoid all contact and not associate with any of the following persons or entities: Codds except in presence of counsel, known members or associates of organized crime
- ☐ 3. The defendant shall avoid and not go to any of the following locations: _____
- ☒ 4. The defendant shall surrender any and all passports to the U.S. Pretrial Services Agency by _____ and shall not apply for any other passport.
- ☒ 5. Defendant is placed under the express supervision of the Pretrial Services Agency, subject to the Special Conditions on the reverse, if applicable, and
- ☒ is subject to random visits by a Pretrial Services officer at defendant's home and/or place of work;
- ☒ must report to that agency () in person _____ times per _____ and/or () by telephone _____ times per _____ as directed by PTS
- ☐ is subject to home detention with electronic monitoring with the following conditions: _____
- ☒ must undergo ☒ random drug testing ☒ evaluation and/or ☒ treatment for: ☒ substance abuse ☐ alcoholism ☒ mental health problems.
- ☐ must pay the cost of treatment and/or electronic monitoring with personal funds and/or insurance.

Other Conditions: Reside @ 116-30 56th St, Queens Village Committee for Mental Health for S-Cap, Inc. 116-30 56th St, Queens, NY

APPEARANCE BOND

The undersigned defendant and sureties jointly and severally acknowledge that I/we and my/our personal representatives, jointly and severally, are bound to pay to the United States of America the sum of \$ 1.5 million. The undersigned agree(s) that this obligation is secured with his/her/their interest in the following property ("Collateral") which he/she/they represent is/are free and clear of liens except as otherwise indicated:

- ☐ cash deposited in the Registry of the Court the sum of \$ _____
- ☒ premises located at: 63 Copperleaf Terrace, Staten Island, NY owned by Joanne & Scott Fappiano
- ☒ I/we also agree to execute a confession of judgment in form approved by the U.S. Attorney which shall be duly filed with the proper local and state authorities on or before 2/24/11

- ☐ Other Conditions: notify defense counsel & AUSA if he obtains any cell phones

Joanne Fappiano Address: 63 Copperleaf Terrace, Staten Island, NY 10314

Scott Fappiano Address: _____

Joanne Fappiano Address: _____

Scott Fappiano Address: _____

The Court has advised the defendant of the conditions of release per 18:3142(h)(1) and (h)(2). This bond is conditioned upon the appearance of the defendant and is subject to the Standard Conditions of Bond set forth on the reverse. If the defendant fails to appear as ordered or notified, or any other condition of this bond is not met, this bond shall be due forthwith.

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth on the reverse of this form.

Release of the Defendant is hereby ordered on 2/23, 2011

US

Signature of Defendant